

[List of Counsel Appears on Last Page]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Spring Design, Inc.,

Plaintiff,

VS.

Barnesandnoble.com LLC,

Defendant.

CASE NO. 5:09-cv-05185-JW

**JOINT PRELIMINARY PRETRIAL STATEMENT
AND [PROPOSED] ORDER**

Date: February 7, 2011
Time: 11:00 A.M.
Dept: 8, 4th Floor
Judge: Honorable James Ware
Trial Date: No date set

1 Pursuant to the Court's December 27, 2010 Order [Docket No. 186] setting a Pretrial
 2 Conference on February 7, 2011, Plaintiff Spring Design, Inc. ("Spring") and Defendant
 3 Barnesandnoble.com LLC ("BN") have met and conferred and jointly submit the following
 4 statement.

5 **READINESS FOR TRIAL**

6 Pursuant to the Court's Scheduling Order in this action [Dkt. No. 113], fact discovery
 7 closed on August 13, 2010. With respect to expert discovery, the deposition of BN's damages
 8 expert is scheduled for March 15, 2011; all other expert discovery was completed prior to the
 9 parties' submission of their summary judgment motions on October 15, 2010. Now that the Court
 10 has ruled on the parties' summary judgment motions, and there are no other issues pending before
 11 this Court or the appointed Special Master, the parties will be ready for trial as specified below.

12 **AMOUNT OF TIME COURT SHOULD ALLOCATE FOR TRIAL**

13 Spring believes that 4 court days should be allocated for trial, with the time evenly divided
 14 between Plaintiff and Defendant. BN believes that 10 court days will be required for trial in light
 15 of the number of claims at issue and the number of witnesses and experts to be called, with the
 16 time evenly divided between Plaintiff and Defendant.

17 **CALENDAR PERIOD FOR TRIAL**

18 Plaintiff proposes that the trial date be set to commence on April 4, 2011.

19 Defendant proposes that the trial date be set to commence on September 6, 2011.

20 **SETTLEMENT DISCUSSIONS**

21 The parties are actively engaged in settlement discussions.

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1 Dated: January 28, 2011

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19 Dated: January 28, 2011

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35 SPRING DESIGN, INC.

36 **ATTESTATION PURSUANT TO GENERAL ORDER 45**

37 Pursuant to General Order No. 45, § X(B), regarding signature I attest under penalty of
38 perjury that the concurrence in the filing of this document has been obtained from its signatories.

39 Dated: January 28, 2011

40 /s/ J. David Hadden

41 J. David Hadden

ORDER

2 On February 7, 2011, the Court held a Preliminary Pretrial Conference. All parties
3 appeared in person or telephonically by and through their respective counsel. Having heard the
4 positions of the parties and in light of the above joint statement and all other matters on file in this
5 action and presented to the Court, IT IS HEREBY ORDERED THAT:

6 The trial in this matter will begin on _____ and each side
7 will be allocated _____ hours for trial.

8 || IT IS SO ORDERED.

10 Dated: _____, 2011

The Honorable James Ware
United States District Judge